

LEWIS  
ANDROCA  
LLP

L A W Y E R S

E-Filed on 3/6/07

3993 Howard Hughes Parkway, Suite 600  
Las Vegas, NV 89169-5996  
Facsimile (702) 949-8321  
Telephone (702) 949-8320

Susan M. Freeman AZ State Bar No. 004199  
Email: sfreeman@lrlaw.com  
Rob Charles NV State Bar No. 006593  
Email: rcharles@lrlaw.com

Attorneys for Official Committee of Unsecured Creditors of  
USA Commercial Mortgage Company

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

**Affects:**

- × All Debtors
- USA Commercial Mortgage Company
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC
- USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**SECOND AMENDED MOTION FOR  
ORDER REQUIRING PIERCY,  
BOWLER, TAYLOR & KERN PC  
TO PRODUCE ONE OR MORE  
CORPORATE REPRESENTATIVES  
FOR EXAMINATION PURSUANT  
TO FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004  
(Amended to Remove Exhibit)**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the Official Committee of Unsecured Creditors of USA Commercial Mortgage Company ("UCC" or the "Movant")<sup>1</sup> hereby moves this Court for an order requiring Piercy, Bowler, Taylor & Kern PC ("Piercy Bowler") to produce one or more corporate representatives, as set forth in subpoenas

<sup>1</sup> Upon the effective date of the Joint Plan of Reorganization (the "Plan"), the UCC will cease to exist and the USACM Liquidating Trust will be substituted in for the UCC as to this Motion.

1 issued under Federal Rule Bankruptcy Procedure 9016, to appear for examination at the  
2 law office of Lewis and Roca, LLP, 3993 Howard Hughes Parkway, Suite 600, Las Vegas,  
3 NV 89169, on a business day no earlier than ten (10) business days after the filing of this  
4 Motion and no later than April 30, 2007, or at such other mutually agreeable location,  
5 date, and time, and continuing from day to day thereafter until completed.

6 This Motion is further explained in the following Memorandum.

7  
8 **Memorandum**

9  
10 The Movant seeks information concerning the financial audits, reviews, and other  
11 services performed by Piercy Bowler on behalf of USACM, the other debtors in the  
12 above-captioned cases (together with USACM, the “Debtors”), and the Debtors’ affiliates,  
13 subsidiaries, parents, or otherwise related entities. The Movant seeks this information to  
14 assist in the collection of the assets and the investigation of the liabilities of the Debtors.

15 The requested discovery from Piercy Bowler is well within the scope of  
16 examination permitted under Bankruptcy Rule 2004, which includes:

17 [t]he acts, conduct, or property or . . . the liabilities and financial condition  
18 of the debtor, or . . . any matter which may affect the administration of the  
19 debtor’s estate, or to the debtor’s right to a discharge. In a . . .  
20 reorganization case under chapter 11 of the Code, . . . the examination may  
21 also relate to the operation of any business and the desirability of its  
22 continuance, the source of any money or property acquired or to be acquired  
23 by the debtor for purposes of consummating a plan and the consideration  
24 given or offered therefore, and any other matter relevant to the case or to the  
25 formulation of a plan.<sup>2</sup>

22 **Conclusion**

23  
24 Accordingly, the Movant requests that this Court enter the form of order submitted  
25 with this Motion.

26  

---

<sup>2</sup> FED. R. BANKR. P. 2004(b).



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Dated: March 6, 2007.

**LEWIS AND ROCA LLP**

By /s/ RC (#006593)  
Susan M. Freeman, AZ 4199 (pro hac vice)  
Rob Charles, NV 6593  
*Attorneys for Official Unsecured Creditors' Committee  
of USA Commercial Mortgage Company*  
-and-

**DIAMOND MCCARTHY TAYLOR FINLEY & LEE  
LLP**

By: /s/ Eric D. Madden (pro hac vice)  
Allan B. Diamond, TX 05801800 (pro hac vice)  
William T. Reid, IV, TX 00788817 (pro hac vice)  
Eric D. Madden, TX 24013079 (pro hac vice)  
1201 Elm Street, 34th Floor  
Dallas, Texas 75270  
  
*Special Litigation Counsel for Official Committee of  
Unsecured Creditors of USA Commercial Mortgage  
Company*